

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Melbourne — 23 June 2008

Members

Mr D. Davis

Mr P. Hall

Mr P. Kavanagh

Mr E. O'Donohue

Ms S. Pennicuik

Mr B. Tee

Mr E. Thornley

Chair: Mr D. Davis

Deputy Chair: Mr B. Tee

Staff

Secretary: Mr R. Willis

Research Officer: Mr A. Walsh

Witnesses

Mr G. Jennings, Minister for Environment and Climate Change, and

Mr P. Reed, Under Secretary, Department of Sustainability and Environment.

The CHAIR — I declare open this hearing of the Legislative Council Select Committee on Public Land Development. Today's hearings are in relation to the sale and development of public land. I welcome Minister Gavin Jennings and Under Secretary Philip Reed to the hearing today. All evidence taken at the hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Any comment you make outside the hearing may not be afforded such privilege. As the minister well knows, he will get a transcript shortly to make minor typographical corrections and so forth.

Before proceeding to take evidence, I note the committee's recent interim report incorrectly indicated that the Minister for Planning would meet with concerned groups over geological stability in the Port Campbell area as a result of a proposed development. I understand, after reviewing the adjournment item raised by Mr Thornley on 10 April 2008, that this undertaking was given by yourself, Minister, as the Minister for Environment and Climate Change. I wonder whether you would like to make some opening comments, including an update on the Port Campbell issue before we start moving to questions?

Mr JENNINGS — Thank you very much. As all members of the upper house know, I am not a member of the upper house who under normal circumstances would read something into transcript, but I am going to do so today primarily for the sake of the committee, which will be able to have a version of this statement before them during the course of my presentation. I am changing my normal pattern to hopefully assist the committee. Therefore I will read this statement.

I am the Minister for Environment and Climate Change. I was appointed to this ministry on 3 August 2007. I attend before the select committee as a minister of the Crown. By letter dated 27 May 2008 I was invited by the select committee to attend this hearing to give evidence in relation to broad public land development issues and specific issues received in evidence to date by the committee.

I have received letters from the Attorney-General which refer to a discussion which has taken place between himself and the select committee on the scope of the terms of reference of the committee. I accept the Attorney-General's interpretation of the scope of terms of reference. The Attorney-General has explained the distinction between 'public land' and 'government land' and the origin of the distinction. The distinction in the categorisation of Crown land has been utilised by governments since 1988 and derives from an administrative arrangements order made at that time. 'Public land' is land with public importance and cannot be sold, and 'government land' is land which can be sold. The committee's terms of reference are confined to public land, which based on the distinction is land which cannot be sold.

As Minister for Environment and Climate Change I administer legislation related to the management of Crown land which can be categorised as 'public land'. The Minister for Finance, WorkCover and the Transport Accident Commission administers those parts of the Land Act 1958 pursuant to which 'government land' may be sold.

DSE conducts the process of making an assessment of 'public land values' for land which has been declared surplus to the needs of the government's departments or agencies. 'Public land values' are described in the government submission — part 3 page 10 — as 'any residual biodiversity, cultural or community use values and whether retention of the land in public ownership is necessary to protect these values'.

As minister, I am responsible for the legislation related to the following activities affecting Crown land: reservation of Crown land under the Crown Land (Reserves) Act 1978 and land management conducted on my behalf by Parks Victoria and various committees of management and government agencies; land management of Crown land which is not reserved by DSE, various government departments and agencies and boards of alpine resorts; management of Victoria's national parks by Parks Victoria; the establishment of the Victorian Coastal Council and endorsement of the Victorian Coastal Strategy; leasing and licensing of Crown land under various pieces of legislation; land valuation by the valuer-general, including that for government land which is being considered for sale; land surveying by the Surveyor-General, including that for any government land which is being considered for sale; land registration by the registrar of titles, who is responsible for keeping the register of land which has been alienated by the Crown.

I would be pleased to take questions from the select committee on matters the subject of my portfolio. In relation to the specific proposition that the Chair has mentioned in relation to the interim report and commitments that

have been made about meeting delegations regarding Port Campbell, my office has met with representatives of the local community in relation to Port Campbell consistent with those undertakings or expectations.

The CHAIR — Thank you, Minister. I appreciate your attendance here today. I want to start with one point that was brought to attention in your statement, and that concerns public land values and the assessments that DSE undertakes. Those assessments are quite extensive, and the committee had a number of discussions with the secretary when he was here. In fact the secretary, in my view, was not as forthcoming as he could have been on these matters. I wonder if you might provide to the committee first of all a list but also copies of the assessments of all pieces of Crown land that have been sold in the last two or three years.

Mr JENNINGS — I am a relatively astute listener, and I think that the request that you have just made to me may have been in a different form from the request that had been made previously through the committee and responded to by the secretary of the department. I note that you used the term ‘Crown land’.

The CHAIR — I did.

Mr JENNINGS — I also believe that there had been subsequent requests made outside the committee —

The CHAIR — By correspondence.

Mr JENNINGS — Yes, by correspondence.

The CHAIR — Following motions of the committee.

Mr JENNINGS — I am led to believe that within government at this point in time there are reflections and considerations and responses being generated to respond to that request, although given that the request is not made to me, I am not in a position to be able to furnish it today. But I think that in fact it may be that you may have a more positive response to that request than the request that was commissioned earlier, which was to link public land and the sale, because as you would fully appreciate, there is an issue between the clear and consistent view that the government is taking and parts of government are taking in relation to this question and the one taken by the committee.

The CHAIR — I appreciate your response. That means that you will provide copies of those assessments undertaken by DSE over the last three years?

Mr JENNINGS — What I am saying to you is that, within government at this point in time and within the appropriate parts of government that deal with the disposal or sale, or alienation for that matter, of Crown land in the form of government land, is currently being considered. I believe that you will have a positive response to that request. It is not my responsibility, and I cannot go beyond the commitments I have just given to you.

The CHAIR — You are in the end the minister, though, and I am just seeking to be quite clear about this. I can conclude from that, can I, that information in terms of all of those assessments over the last three years will be provided?

Mr JENNINGS — What I am saying to you — —

The CHAIR — Sorry to jump around the block on this.

Mr JENNINGS — I am trying to be as helpful as I possibly can. I am dealing with matters that I do not believe are part of my responsibility but I understand are being responded to within government, within the appropriate agencies, to be able to furnish the committee with information regarding the sale of Crown land, in this case government land, that has been disposed of. I believe that that request of the committee will be responded to positively and will furnish you with information that you have not been able to obtain previously because you have sought that derivation for public land.

The CHAIR — That is the first one. We look forward with anticipation to receiving those assessments by DSE for Crown land over the last three years.

The other point I want to turn to is that a great deal of evidence has been received by this inquiry on the Kew Residential Services site. There are two issues I want to, in the first instance, take up with you on that, Minister. The first relates to the involvement of lobbyists and specifically former Senator Graeme Richardson. I have asked other ministers and I feel duty bound to ask you, too, whether you have met with former Senator Graeme Richardson?

Mr JENNINGS — I have met Senator Richardson but I have not spoken to him or met him since 1992.

The CHAIR — I am pleased to hear it. I think that stands in stark contrast to other ministers who have met with him much more recently.

The second matter I want to take up with you regarding the Kew Residential Services site relates to the issue of trees on that site. As minister responsible for biodiversity and related matters, more than 170 trees have already been removed from the site. Stage 2 will see the removal of another 73 trees, and there seems to be some confusion in the Minister for Planning's mind as to whether he has actually issued a planning permit or not. I ask you first of all what assessments DSE undertook with respect to the biodiversity and other values of those trees on the Kew Residential Services site, and what role it will play into the future?

Mr JENNINGS — I think part of the difficulty with answering your question, and it would be my preference to answer all the committee's questions as thoroughly as I possibly can and that is why I sought some advice, is I think there is a fair chance that the biodiversity values or the overlay of vegetation within the planning stage of this proposal probably preceded the creation of DSE, so literally probably the answer is none.

That does not mean there would not be some professional assistance that may have been provided by people who may be associated with the department. But ultimately in terms of signing off on the development proposal, you would appreciate that these are matters that are not currently subject to any statutory requirement that I would exercise. I have received no evidence that that is the case, and so the consideration of those vegetation matters would be a matter for planning consideration — —

The CHAIR — Alone?

Mr JENNINGS — At this time, yes.

The CHAIR — I can conclude from that that there is no formal involvement of DSE in these type of projects to ensure that key vegetation values and in particular biodiversity values are protected. Is that a conclusion I can draw?

Mr JENNINGS — No, it is not a conclusion you can draw. This is all going to be a matter of us being acute listeners to one another, because I provided you with an answer to say that at the time at which the appropriate consideration of biodiversity may have been undertaken on this site — —

The CHAIR — Very recent, stage 2.

Mr JENNINGS — No, I think in the first instance the planning overlays were considered quite some time ago. Depending upon the degree of expertise and validation that may be required and who brings to bear the expertise that accounts for biodiversity considerations, that may from time to time involve officers who work within the Department of Sustainability and Environment.

There is in fact quite an established professional sector dealing with vegetation matters, and private consultants who are available and accredited and recognised within the planning regime who can provide those services, just as there are officers within the DSE. There is no blanket answer to your question in terms of whether by necessity or otherwise or in terms of validation there may be a role for DSE officers. It is impossible to give a definitive answer in the way that you sought from your question.

The CHAIR — Let me ask a very specific question that relates to this. Stage 2 of the residential services development would see 73 trees removed. The minister has apparently signed off on this, although Heritage Victoria has not. How would anyone — a member of the public or the local municipality, for example — go about the process of involving DSE in this if they believed there were biodiversity issues at stake?

Mr JENNINGS — If there are biodiversity issues at stake, there can be interested parts of the community who, without necessarily being confined to this location in the general — stepping aside from the specific example that you gave — have an interest in biodiversity and who believe that that biodiversity may be threatened or a species may be threatened, can seek intervention or consideration of that whether it falls within the scope of the Flora and Fauna Guarantee Act as an example, and can communicate to the department, which then would make the appropriate referral to the scientific advisory committee. It may make determinations about whether these values are indeed rare or threatened and would require some sort of preventive action being taken to preserve them.

That is one process. Members of the community who may be concerned about vegetation controls within the planning regime may exercise at various times the opportunities to work through the planning process in terms of council approvals or to VCAT as the appropriate decision-making body in relation to planning, vegetation controls and overlays. It really depends upon where — —

The CHAIR — In this specific case the Minister for Planning is the authority. How would you involve DSE in that case?

Mr JENNINGS — I have already indicated to you that my answers relate to the process that may apply generally.

The CHAIR — Where the Minister for Planning is the responsible authority perhaps?

Mr JENNINGS — I think in the consideration of planning controls. Presumably you have had an opportunity to test the Minister for Planning in relation to that, and presumably he accounted to the committee for his consideration of those matters when he was here.

The CHAIR — It is the biodiversity aspects that I am interested in in your — —

Mr JENNINGS — He has to be mindful of vegetation controls. I do not know that you or anybody else are reporting in relation to threatened species that are in question, which may be at the heart of your biodiversity question. If those issues have been identified, then I believe they would need to be accounted for, but the Minister for Planning would be dealing with that matter.

Mr THORNLEY — Minister, we have concentrated quite a lot on issues around the possible sale of Crown land and other matters. Has the government taken any action to increase the amount of Crown land?

Mr JENNINGS — I am very pleased to say that we have undertaken a variety of actions which have increased the size of the reserve system over our period of office. While the tenor of this committee's consideration may be a net loss, I think over time there has been net gain both in terms of the reserve system and in terms of land acquisitions, and I think I may be able to account for that in some shape or form.

Somewhere in the order of 250 000 hectares have been added to the parks system during our terms of office, and somewhere in the order of 16 000 hectares of private land has been added to Crown land public land listings over that period of time, much of which has been added to the parks system and particularly in relation to the establishment of urban parks in metropolitan Melbourne.

Mr O'DONOHUE — Just following on from that question, Minister, how much has been added within the urban growth boundary area?

Mr JENNINGS — I think the significant addition to this parkland may fall within metropolitan Melbourne. I am happy to find the detailed answer to that question, but certainly as you would be aware, significant commitments have made by our government over the last few years, including in election commitments, which have added to six urban parks throughout the metropolitan Melbourne region. It is very important to us to add to that.

Mr O'DONOHUE — Has there been a net gain in the metropolitan area as defined by the urban growth boundary?

Mr JENNINGS — I would need some technical advice in relation to that, but I may mortify you to tell you that the answer is yes. I think the indications are that that may be the case.

I think in terms of the land that I might be responsible for, there have been some significant additions. Just bear with me for a minute. As an example, one that I have thought of that may be interest to you is the Devil Bend land which is over 1000 hectares and I may as well go there. That has been added, in terms of the public land estate, of recent time.

Mr O'DONOHUE — That is actually existing public land. The previous minister said that with the sale of the 40 hectare site at Devil Bend, the funds from that site would go towards the infrastructure and management of the park. Can you describe how that money has been spent?

Mr JENNINGS — At this point in time I cannot. I have not got information before me. But as you would appreciate, when we actually talk about the addition to the reserve system, this has been clearly an addition to the land that I have been responsible for as the holder of public land which falls within the reserve system. From my vantage point, there has certainly been a net addition to my portfolio responsibilities. In relation to the cash flow of the management, I would actually have to take some advice on that.

Mr O'DONOHUE — And you will come back to us?

Mr JENNINGS — I am happy to furnish the committee with advice on that.

Mr TEE — Minister, roughly what proportion of Victoria is made up of Crown land?

Mr JENNINGS — Crown land, in its various forms, comprises the best part of 8 million hectares. In my case, in terms of the national parks and reserves systems, we believe that somewhere in the order of about a third of all Victorian land is incorporated within the various categories of Crown land. The vast majority of that falls within the definition of 'public land' for which I am responsible.

Ms PENNICUIK — Minister, the Attorney-General, as you know, has written to the committee regarding administrative order no. 58 of 1988 regarding the contrast between public land and government land. Can you tell me, Minister, how does that work with the definition of public land under the Victorian Environmental Assessment Council Act 2001? Is that the same definition?

Mr JENNINGS — Without having that relevant act before me, can I suggest to you that in every context where the words 'public land' appear within legislation which I am responsible for, it describes a variety of values that relate to what was in my statement that relate to either its biodiversity or public benefit or attributes which describe them in land that should be protected and preserved. That is the clear context in which that definition is used.

Overlaying that with the possible terms of reference of this committee and how any element of that land so described in that act may subsequently be a consideration of this committee would require a determination by my department that those values that were not existent or ceased to exist ought to be relevant to the reserve system or the public interest. If that were the case, it may be subsequently amended to become government land and may come within the scope of this committee's interest.

Ms PENNICUIK — I am not sure if you quite answered the question. I mean — —

Mr JENNINGS — I definitely did.

Ms PENNICUIK — The VEAC Act definitely refers to public land; it does not refer to Crown land. It refers to public land, so I am wondering is it public land as defined under that administrative order

Mr JENNINGS — Which parcel of land?

Ms PENNICUIK — Any land. VEAC looks at:

investigations relating to protection and ecologically sustainable management of the environment and natural resources of public land.

Mr JENNINGS — Yes. Are you aware of any circumstances where VEAC has determined any public land that should be reserved for those purposes and then subsequently not maintained it as public land?

Ms PENNICUIK — No, I am not.

Mr JENNINGS — Well, there you are. That is the answer to your question.

Ms PENNICUIK — But just because I am not aware of it does not mean it has not happened.

Mr JENNINGS — In fact the answer to your question is that there are no examples that you or I can draw attention to where there is an inconsistency. There may be a parcel of land, and that is why I gave a theoretical answer. I am not aware of any, so in practice the application of that definition in that act is maintained because all the parcels of land as defined in accordance with that designation are maintained in public ownership.

Ms PENNICUIK — Yes, although it refers to land that is under the ownership or control of Melbourne Parks and Waterways and any public authority other than a municipal council or an authority under the Water Act, which could theoretically include government land. I am just asking the question.

Mr JENNINGS — That is the reason why I — —

Ms PENNICUIK — But it is not defined as government land.

Mr JENNINGS — First of all, the reason why I gave the theoretical answer was because I think it is important for us to understand that basis, and then beyond that, if there were any such land that was designated that ended up being determined to be government land or sold, then I would be happy to be able to account for that variation. But I do not know of any examples, and at this point in time you do not know either.

Ms PENNICUIK — No, but I am asking a theoretical question about definitions rather than about specific sites.

Mr JENNINGS — Right.

Ms PENNICUIK — Minister, can you explain the process for the alienation of Crown land that is unreserved or reserved for a particular purpose, that is going from reserved land back to unreserved land? How does that work?

Mr JENNINGS — The process is engaged in whether the public interest or environmental interest or biodiversity values either are assessed not to warrant ongoing reservation or the public expectation of the public estate in terms of either control or ownership of the Crown in relation to that parcel of land, warrants ongoing reservation. In the vast majority of cases we never reach that threshold or that trigger.

In the vast majority of cases that we are talking about, the best part of 8 million hectares, that just does not happen. In some cases what actually happens from either the interests of the manager of the land, the community interest that is involved or a recognition in very rare instances about an inappropriate assessment of environmental values. I think hardly ever occurs but would be the driver of this decision.

But in terms of community expectations that may be driven by local community's needs or engagement, or for instance a government agency that may have had a use and purpose for its land that is no longer a relevant local community use, under those circumstances there could be a change of the land tenure, and the potential for it to be disposed of if and when it was designated as government land.

In terms of the estate that I am responsible for, and in terms of protecting environmental values, biodiversity values and maintaining the reserve system, there are very, very few instances where in fact there would be any change in designation from public land to government land.

Ms PENNICUIK — Minister, reserved land under the Crown Land (Reserves) Act could be referred to as public land because it cannot be sold. Is that right?

Mr JENNINGS — Crown land that is designated public land cannot be sold.

Ms PENNICUIK — And is that reserved land?

Mr JENNINGS — Depending on what act it falls within in terms of its management, it will be reserved in some shape or form. There are different forms in which the reserve may take from being a national park to being a courthouse, for example. There are different forms of what the Crown reservation may be. Some of them are

designated specifically as Crown reserve as distinct from a national park, but I think you and I both accept that there is a form of reservation that maintains that land in public ownership, and various categories of reservation are ascribed to it which change slightly its land tenure, but ultimately it maintains its position as public land.

Ms PENNICUIK — If I could just explore this a little more. If the Victorian Environmental Assessment Council makes a recommendation that requires a government response, is that the same process? Does it do that, and does it require a legislative response?

Mr JENNINGS — We are talking about the Victorian Environmental Assessment Council, and we are talking about its predecessor, the LCC, in a variety of iterations that have transpired. It has its own act; it makes assessments about environmental values, the appropriate form of land tenure, the appropriate engagement in terms of the appropriate use and management of that land. Historically there is a very high correlation between the recommendations that come through that process, which is then subsequently presented to Parliament, and then the government responds to those recommendations formally. Because it deals with land tenure, very often it requires legislative underpinning to effect that land tenure. It goes back to your question about what form of reservation occurs.

For instance, before the Victorian Parliament at this moment is a bill that I am associated with — the national parks bill that deals with the Cobboboonee Forest. Previously it had been designated as a state forest, and it is about to become a national park. To underpin that change requires legislation.

Ms PENNICUIK — Can I just go back a step? With the DSE assessment of Crown land, DSE assesses Crown land to decide whether it is going to be government land or public land under the administrative act or order. Is that correct? I want to ask you if VEAC is involved with that or consulted in that process, or is this separate?

Mr JENNINGS — This is a separate process. How do we get to that little snapshot of a process that you have just described in terms of the role of DSE? What would happen is that if any agency — say, the education department; I was about to use one in Mr Davis's time — let's say that when his party was last in government the education ministry decided that Fitzroy school was surplus to requirements, the process would be that the education department would say, 'It is no longer required for our purposes'.

Then it would identify that to the Department of Treasury and Finance which would then say, 'There is potential for this parcel of land to be surplus to government requirements. DSE, will you go and have a look at whether there are any environmental values or public values that should be maintained to say it should stay on the public land side of the register'. If DSE says that land should be preserved as public land, then that is a very influential designation, and it would then warrant some examination of how the land could be managed by an agency, committee of management or government department to maintain its public land values.

If it was determined to be government land, and we were all lucky enough that in fact it was not determined and then subsequently sold as government land, which enabled us to resurrect the school — and that example just came to me on the run — if DSE came back and said, 'No, there are no environmental values there, and the community of interest actually says it is surplus to public interest and can be disposed of in terms of land sale', then it would go on to the government land register.

Ms PENNICUIK — The process that VEAC is involved in is post all of that?

Mr JENNINGS — It is post or pre; it would depend on which end of the continuum you actually say it is at. Quite often what happens at the moment is that VEAC's consideration is on a landscape scale as distinct to what we are actually talking about for most intents and purposes, which are small, isolated parcels of land.

VEAC generally deals with landscapes. For instance, at the moment it is dealing with the landscape of the Murray — the river red gums right along the Murray. It is having a look at all the length of the environmental values along the Murray, and it is going to make recommendations shortly about what form of land tenure and land management should be applied to that landscape. Once it makes those recommendations then the government responds, either to accept or reject or implement its decisions, and it could designate that land. You could actually say, depending upon where you are in the process, that is before the process or it is after. I am thinking that in this case it is before.

Ms PENNICUIK — Minister, in terms of an example, regarding the north–south pipeline, which process would be used if that crosses reserved land, unreserved land, national park or a state forest?

Mr JENNINGS — I am not absolutely clear how this example gets in within your consideration.

Ms PENNICUIK — It is alienation of public land.

Mr JENNINGS — Alienation in what sense?

Ms PENNICUIK — Alienation in that it could be being used for a purpose for which it is not reserved.

Mr JENNINGS — Alienation?

Ms PENNICUIK — That is part of our terms of reference — alienation of public land.

Mr JENNINGS — And clearly you would be aware that it is the government's view, from the submission of the government, that in fact we do not believe in your definition of alienation. We rely on *Black's Law Dictionary* to actually support us, as I remember.

Ms PENNICUIK — Not always, Minister. Sometimes you rely on obscure administrative orders.

Mr JENNINGS — No, on this occasion I have actually seen the footnote to the government's submission, and we rely on *Black's Law Dictionary*.

Ms PENNICUIK — However, I am talking here about public land as defined by the administrative order and by the VEAC act, and I am asking what process would be used in terms of any alienation of that land if it is unreserved or reserved public land, a national park or a state forest.

Mr JENNINGS — For a starting point, let me say to you that, from the vantage point of the government, the land is not alienated — no. 1.

Ms PENNICUIK — Can you say what is it?

Mr JENNINGS — We believe that the land is not alienated because the government is of the view that alienation requires a transfer of the title of the land — that is no. 1. Beyond that, let me actually then be generous to you, because it is important for us as a community to have some confidence that there are environmental assessments, and indeed there are environmental assessments that have been undertaken to provide for confidence about the appropriateness of the proposal, to mitigate against any adverse impacts and to be aware of what environmental values may fall along the proposed pipeline. That evaluation has been undertaken and is being considered by the proponent of the pipeline, by the Minister for Planning, and by me in relation to what those environmental values are and to mitigate against any adverse impacts on them, and ultimately to provide confidence to us all that environmental values are being protected. Having volunteered all of that to you, I reiterate that in fact from the government's perspective, very clearly this land is not being alienated from the public.

Ms PENNICUIK — Just one more quick question, which you can give a yes or no to — —

Mr JENNINGS — Will I?

Ms PENNICUIK — Is VEAC involved in any of these processes?

Mr JENNINGS — VEAC is involved in the processes that I have been talking about but not in relation to the pipe proposal.

Mr HALL — Minister, is the cost of managing a piece of land a consideration when it comes to deciding whether that land will be retained as government land or not?

Mr JENNINGS — In relation to government land?

Mr HALL — Yes. It is only government land that can be disposed of, according to what you have said.

Mr JENNINGS — I know. I would like to be able to help you because it is a good question. I think it is a very good question. But I think the committee has actually ruled itself out from getting an answer because its terms of reference relate to public land. If in fact I were not part of a government that is trying to encourage you to reflect on your terms of reference, I would be really keen to jump in and give you the answer because I think it is a good question. But I cannot.

Mr HALL — I will rephrase that. In terms of your consideration of the particular capacity of land or title given to that land, whether it be Crown land — that is, public land — or government land, is the cost of management a consideration in the declaration of the status of a piece of land?

Mr JENNINGS — From my vantage point, the answer should be no.

Mr HALL — Is there a balance sought by your department when it assesses public land about environmental values and management values and other public use values?

Mr JENNINGS — I think the answer to that is yes. There needs to be because you have actually now incorporated a broader mix of issues which relates to community use, community utility, public identification as well as environmental issues. Those matters should be brought to bear in terms of this consideration. In this instance, for any land that I would be associated with as the minister responsible for public land, I do not think it would ever be acceptable for the cost of management of that land to be the key driver and determinant of whether the land should be public or government land.

Mr HALL — What happens when there is a significant addition to public land — a new national park, for example? What sort of consideration or request is given towards increasing your funding to manage properly those lands?

Mr JENNINGS — I can assure you that I am particularly mindful of our obligation to manage the land within the public land estate, and any additions to it will require additional resources to support that. For instance, in the one I have already drawn attention to today — the creation of the Cobboboonee National Park — even though the land had been public land in that it had been assigned as state forest and will continue to be until the passage of the bill or the proclamation of the bill, with the change of land tenure and the reserve system and the requirement to make sure we resource it appropriately, I made sure that I did not announce that we were making it a national park until I knew I had budget cover to be able to provide for additional resources. I take that issue very seriously.

Mr HALL — Sure. Thank you.

Mr KAVANAGH — Thank you for your evidence, Minister. Could I ask you about the meeting you had with people interested in the Port Campbell development? Can you tell us if there has been any change of government policy or attitude towards that proposed development?

Mr JENNINGS — In case I have actually given any false impression, I was represented at that meeting by somebody from my office as distinct from meeting personally — just to be clear about that. But I can assure you that I have been briefed outside the consideration of this committee about those matters, and have been concerned with trying to provide ongoing confidence to all parties concerned that all relevant issues are being considered.

As you would appreciate, I think, from questions you may have raised with Minister Madden and his response, I think Minister Madden and indeed I have tried to do what we can to provide the committee with assistance in talking about this issue even though really, if you read it down, there is absolutely no opportunity in the government's view for that specific proposal to fall within the scope of the committee's considerations. But because there is a community of interest, we are actually trying to provide a cumulative piece of confidence that matters are being accounted for.

Whether it be through seeking out confidence through the planning process for developments on that part of the coast, whether it be to try to ensure that local government as the planning authority does deal with the geotechnical matters, that we are armed with that type of advice before a decision is made, I can assure the committee that we are interested in trying to make sure that those bases are covered. But in terms of the possibility that there be any sale or alienation of what would be government land in that neighbourhood, there is nothing before government

that relates to that, and there is certainly nothing within the scope of the terms of reference of the committee which would indicate that public land would be alienated from public use.

Mr KAVANAGH — Thank you. Could I also ask you about the Royal Exhibition Building and Carlton Gardens? They were listed about four years ago with World Heritage status, and under the Environment Protection and Biodiversity Conservation Act the state and commonwealth governments are required to develop a world heritage strategy plan and world heritage management plans for the site. They have not been done yet, is that right?

Mr JENNINGS — Given that this way out of kilter with what I was expecting to be talking about, I have not actually got the answer to your question. But other than me speculate about something that I am not armed for — I do not know really if I am complying with the scope of the terms of reference and I will be able to furnish you an answer but if I can — —

The CHAIR — It is public land up there under your definition and — —

Mr TEE — It is not being alienated though.

Mr JENNINGS — It is not being alienated — —

Mr KAVANAGH — It is being temporarily alienated by flower shows and so on.

Mr JENNINGS — Not according to *Black's Law Dictionary*. Did you ask Minister Madden this question?

Mr KAVANAGH — No.

Mr JENNINGS — I think it would have been a good idea.

Mr KAVANAGH — If you could furnish an answer I would appreciate it, thank you. I would like to know why it has not been done yet.

The CHAIR — Minister, I want to talk about a piece of Crown land at the Werribee Open Range Zoo. It is a significant piece of public infrastructure, which is directly under your portfolio area and responsibility. From correspondence I have received personally, and I think it is a matter of public record as well, indeed I think you may have been asked some questions about it elsewhere, I wonder if you would update the committee on where the interdepartmental committee that is looking at the Village Roadshow proposal is? My understanding is that that committee has completed its work. Will you indicate to the committee whether that piece of Crown land is going to be leased or sold or otherwise alienated for a lengthy period of time?

Mr JENNINGS — Okay. Without actually being able to give you all of the level of detail that you may be seeking, let me say to you very confidently that the land in question, as of today, is public land. There has been no advice received anywhere within government for the status of the land to change from public land, so there has been no consideration of the sale of land. The designation of it is government land, and that is exactly where we are at as I sit here before you.

The CHAIR — So you can rule out any sale or lease of that land?

Mr JENNINGS — What I am saying to you is that there has been no consideration within government up to this point in time that we are doing anything about changing the status of the land or any determination made about that matter.

The CHAIR — In relation to the interdepartmental committee that has met over many months, I wonder if you would furnish the committee with the minutes and details of correspondence to and from that committee.

Mr JENNINGS — You know that I will not for a variety of reasons.

The CHAIR — I do not know that at all actually. I am seeking that because — —

Mr JENNINGS — I think you do because you asked me this question in the Parliament and I tried to give an extremely comprehensive and detailed response to your question. It covered the scope of what people have been talking about, told you what departments people came from, but I would not tell you their names and I would not

give you the minutes of their meeting, but I could actually tell you exactly what issues they were considering, which I think was a pretty reasonable response. There is nothing that you or anybody can call on to actually say that there has been anything within the consideration of the IDC to indicate that its considerations, its deliberations, its recommendations to government would fall within the scope of this committee; there is nothing, there is no evidence. I have told you that there is no evidence.

The CHAIR — Well, the rumours abound still that there will be a sale or development of this land.

Mr JENNINGS — The longer we stay here, the less that there will be.

The CHAIR — The committee has received correspondence from the Friends of the Zoos president indicating concern at a proposal to develop a theme park on public land currently operated as a zoo. That is the land in question, and I think the concerns in the community are significant. I do not think, with respect to your attempts to accommodate both me in the Parliament and today in the committee, that you have actually removed those concerns. A simple 'No, the land will not be developed or sold or alienated' would do the trick.

Mr JENNINGS — What can I say to you beyond what I have actually said? There is no determination by the government to embark upon any action that would mean that it would fall within the scope of the committee's terms of reference.

The CHAIR — Minister, there is another piece of land which abuts public areas of responsibility, and that is the proposed development by the Stockland firm at Point Lonsdale. The committee has received evidence about this and about the potential impact of that sale and development on public values, so I wonder if you would indicate to me whether you are aware of this proposal and whether in your opinion it will have any impact on the Swan Bay area and in particular the Ramsar wetland values that are integral to that area of Point Lonsdale.

Mr JENNINGS — I do not think I am aware of it.

The CHAIR — Can I hand you the submission? This might help.

Mr JENNINGS — Thank you.

Mr TEE — It is on private land.

Mr JENNINGS — It is, definitely. I think Mr Davis even volunteered that it was on private land, but I am still not aware of it.

The CHAIR — You may want to take this on notice perhaps then.

Mr JENNINGS — I think Mr Davis is trying to hope that, far beyond the scope of the terms of reference, in fact I volunteer an answer that I would be concerned about environmental values that abut this private land. Of course I am interested in environmental values that are on public land and to maintain them. Of course I am interested in making sure that there are no adverse impacts upon Ramsar wetlands.

We have statutory obligations in relation to those matters. Quite often, as you would be aware, if those values may be jeopardised we will make sure through the relevant planning processes that potential impacts would be identified and appropriate actions to mitigate against adverse impacts would be advocated through the planning process, and that happens on any number of occasions. In fact, officers of my department get into trouble because of how diligent they are in exercising power on any number of occasions, because they actually take their roles and statutory obligations very seriously. It is far more often that I get complaints about them being vigilant and sometimes overly rigorous rather than the other way around.

As a starting point I can say to you that from my vantage point we will be mindful of any environmental values of public land. Ultimately though, having given you that response, I do not know beyond that that I will be in any position to furnish you with anything else, because unfortunately it is a related issue but outside the scope of your inquiry.

The CHAIR — Just very briefly, in terms of the impact of that development on public land values, will you consider any referral to the federal minister under the EPBC act and the Ramsar requirements?

Mr JENNINGS — It would be inappropriate for me to actually speculate in any shape or form about that.

Mr THORNLEY — Minister, a lot of the questions that are asked of you are outside the terms of reference of this inquiry, but since you cohabit the upper house with us, I presume that you would be happy to answer any of these questions that any of these people might have in the Parliament in the ordinary course of business?

Mr JENNINGS — You will notice, or I hope you do, that I at least try to give a response to a question, and usually in most instances have some recollection of the details or some relevant fact in relation to what we are talking about. It is my clear preference and my clear desire to be accountable to the Parliament.

Mr TEE — Perhaps if I can just jump on a supplementary to that — —

The CHAIR — Will that be your question?

Mr TEE — Yes, if I could just take up my question flowing on from Mr Thornley's question. In relation to the questions that have been asked that are outside the scope of the terms of reference, I take it that if the terms of reference were clarified and/or expanded by the house to encompass those matters you would then be in a position to answer those questions.

Mr JENNINGS — I think the answer is yes. I cannot for the life of me work out why that has not happened, apart from the fact that it creates the impression that we are in conflict with one another. Apart from that, I do not know.

The CHAIR — You could just answer the questions.

Mr JENNINGS — It is a difficulty that has been created. I do not know what the benefit of maintaining the difficulty is, because not only are ministers, which includes me, accountable for the laws that they have to administer, but we also have to adhere to administrative guidelines and practices and procedures that are adopted within departments. Not only does it mean that I have to drop into accordance with those but any departmental person who appears has to because they are bound by those laws and those administrative arrangements. Even though we might have a different view in terms of the semantics or the legality of it — —

Ms PENNICUIK — Dictionary definitions.

Mr JENNINGS — Dictionary definitions, absolutely, or common-sense interpretations.

Ms PENNICUIK — Indeed, Minister.

Mr JENNINGS — Ultimately people are bound by the professional circumstances of their engagement or the laws which they operate under. I am no different to the other people who have just reflected that in a variety of different ways.

Mr O'DONOHUE — What environmental concerns has your department identified regarding the proposed location and size of the desalination plant, noting that the compulsory acquisition process, as I understand it, has been finalised?

Mr JENNINGS — That is one way of describing it. I am just trying to work out any answer, any information that I can give you that will actually help you in terms of delivering on your report. I cannot think of any.

The CHAIR — The easement across the land — the area where the pipes will run?

Mr O'DONOHUE — I suppose to go back to the discussion we just had, and it is worth noting, and I do not think the committee has put this proposition to you in these words, that the committee has clarified its terms of reference as it sees them. The committee has every right and entitlement to do so. There should be no expectation, in my opinion, that the committee adjusts its terms of reference to suit the executive.

Mr JENNINGS — That's okay. You can operate whichever way you like — within reason, within the forms of the house, within whatever mandate you are given by the house. I am not disputing that. I am saying to

you that you are operating within your interpretations of rules and procedures; I am operating in accordance with the law, administrative arrangements and the decisions of the government. What I am saying to you is that you do not have to account for those things — I do.

Mr O'DONOHUE — You, as a minister, have to account to the Parliament and the Parliament has given us this reference and we have interpreted that reference, as we are entitled to.

Mr JENNINGS — As am I.

The CHAIR — Not entirely.

Mr TEE — Ultimately we could go back to the house and have that reference clarified.

Mr O'DONOHUE — What EES assessments have been done in relation to the desalination plant? Can you give us the detail of what they are and what they have found?

Mr JENNINGS — Two things in relation to this: one, I still think that that question does not fall within the scope — —

Mr THORNLEY — Ask it tomorrow in the house.

Mr JENNINGS — I think that is not a bad proposition — and you could also consider that you would be welcome to ask me, you would also be welcome to ask the Minister for Planning, who would be responsible for the consideration of the EES and providing accounting for the types of issues that were actually dealt with, and that is the best place to do it.

Mr O'DONOHUE — Further to Ms Pennicuk's question about the north–south pipeline and your response that that does not necessarily constitute alienation, does the proposal to construct 85 kilometres of overhead powerlines through both private and public land constitute, in your view, alienation?

Mr JENNINGS — I have not been provided with any advice or information that would indicate that alienation of any parcel of public — certainly by definition it would not happen to public land — or subsequently of government land or any designation of government land along a proposed route would occur. I have not got any evidence of that being brought to my attention or any consideration.

Ms PENNICUIK — Without wanting to go over the definition thing again — obviously Mr Tee and Mr Thornley have taken the opportunity, and you have yourself — public land, as we have defined it, is public land that is not privately owned. I do not see the committee as being in conflict with the government. The government only started this issue several months after the committee had received its submissions — it had already received its submissions from members of the public, community groups and councils et cetera. I feel it is very disappointing that the government continues on this line, given that the community has used the dictionary definition and has understood public land to be public land.

Most members of the community do not know of the existence of the administrative order. It is disappointing that the government, I think, is treating the community with a degree of contempt by not wanting to answer questions that do not use those definitions of 'public land' and 'government land'. I would also say that what happens when you have a committee that takes wide-ranging submissions, like this one, is that important issues will come up which may not fall within the strict definition of the terms of reference but which the committee should not ignore, such as the Port Campbell issue.

Mr JENNINGS — Sure.

Ms PENNICUIK — And the Port Campbell issue, I think, raises another issue, which is a gap that I think — —

Mr THORNLEY — That is why I raised it in the house.

Ms PENNICUIK — It has been shown up by this committee. I asked the secretary, Mr Harris, whether he took an interest in land adjoining DSE land, adjoining public land, for the effect that developments on that land

would have on the adjoining land. His answer in effect was, 'While we take an interest, there is so much of it we cannot keep an eye on it'.

I asked him whether they make any proactive attempts to make sure that developments alongside public land that would affect that public land are kept an eye on by DSE, and I think that is a gap. For example, the Port Campbell example, the Swan Bay example, the wetlands — I have forgotten what they are called but they start with 'M' — down on the Bellarine Peninsula. That is another development next to a wetland that is going to have an effect on that wetland.

My question to you is: are you as the minister interested in that issue, which this committee has identified as an issue, in that DSE land can be affected by activities going on on private land next to it but it is not taking an active interest in them?

Mr JENNINGS — This is almost like us having a cup of tea now, having a conversation about this. I can volunteer to you that I am very interested in the issues that you raised.

Ms PENNICUIK — I am glad to hear it.

Mr JENNINGS — I am interested in those, and in any number of instances we do engage in that consideration. From my vantage point, even though you might have been given the impression that it is reactive one, I would like us to be as proactive as possible. Maybe you can answer exactly the same question, whether you choose to be defensive or whether you choose to be open. I choose to be quite open in relation to that because I think they are important issues.

Whether they actually fall within the scope of your inquiry is a different matter. How they interface with the scope of your inquiry — I think we can all reflect on how you could rope them in. I understand. I accept your premise that when you start out putting in submissions people do not know technically, procedurally — they do not know the law, they do not know administrative arrangements. Clearly in some instances they do not know the difference between public and private land, because many of your submissions relate to private land. They clearly did not know.

But you had an opportunity to reflect, once you actually passed the point of receiving those submissions, on how you tried to organise your terms of reference to get it all in. I am just reflecting to you that I do not think you have.

Ms PENNICUIK — We will have to agree to disagree on that one, Minister. I notice that Mr Tee and Mr Thornley were able to elicit the answer from you that we have an increase in reservations around the state. Could I ask you a question about the Melbourne 2030 parklands code? Can you tell the committee whether the objectives of that, which are ensuring there is no net loss of public open space and planning for the future needs to guarantee equitable access for future generations, are being met?

Mr JENNINGS — I think this is actually another form of Mr O'Donohue's question — the early one. I have already volunteered to provide some information in relation to net additions to the reserve estate. I am happy to go away and have a look at — —

Ms PENNICUIK — This is within Melbourne.

Mr JENNINGS — Yes, it is exactly the same question. I volunteered the number of 16 000 hectares that have been added to public land during the life of our government — beyond the 250 000 hectares or so that we have put in the reserve system. I am happy to look at how much of that is in the metropolitan area and report back to the committee.

Ms PENNICUIK — And whether there has been a net loss or net gain of public open space under the parklands code, according to its objectives?

Mr JENNINGS — I am happy to volunteer that to you, even though there might be some people who I work with who say I am being far too generous with the committee.

Ms PENNICUIK — Minister, I am just wondering where you are going to get the information from. The secretary of your department says they do not keep a register or a list of all this. The Department of Treasury and Finance told us the same thing.

Mr JENNINGS — It is a different thing. My interest is actually the parks and reserves system and public land. Your interest is in fact what the overlay of the 2030 boundary is over that. After the fact, you might be able to invent it; whether before the fact it has been created is a different question.

Ms PENNICUIK — The question is whether there is no net loss of public open space, which is the objective under Melbourne 2030. I am just wondering where you are going to get the information if it is not kept. Where is it kept? It would seem to me that this should be public information. This information should be probably on a web site that everyone can have a look at.

Mr JENNINGS — I might talk to my colleague the Minister for Planning about that.

Ms PENNICUIK — The Green Wedges Coalition submitted that there are loopholes and gaps with respect to protection of remnant vegetation. Do you have any comment about that? For example, some sites that it has mentioned were the bulokes, which are the habitat of the red-tailed black cockatoo. An example in Melbourne I can think of is the loss of Chiquita Park, which was remnant vegetation built on for housing and not replaced with any other public open space. Its submission is that there is a gap there with regard to remnant vegetation.

Mr JENNINGS — Which parcel of land was this?

Ms PENNICUIK — Chiquita Park, which is in Cheltenham.

Mr JENNINGS — Cheltenham?

Ms PENNICUIK — I believe it is Cheltenham, yes.

The CHAIR — We had a number of submissions about that.

Mr JENNINGS — Did anybody suggest to you that that was not freehold land?

Mr TEE — I thought it was federal land.

Ms PENNICUIK — Was it freehold land? I do not think it was freehold land.

Mr JENNINGS — I think it is freehold land, because I have got a volume and folio number.

The CHAIR — Is that now or is it before it was sold?

Ms PENNICUIK — Even so, the question was not about whether it was freehold land, it was about it was significant remnant vegetation and it was public open space.

Mr JENNINGS — Yes.

Ms PENNICUIK — And the remnant vegetation is being lost, and that was the issue Green Wedges was raising: that there is a loophole or a gap in the legislation regarding the protection of remnant vegetation. That is the question.

Mr JENNINGS — Right, the thing about it is, again, it is a fair enough question. Whether it actually falls within your terms of reference is a different question. This is a parcel of freehold land where we should have interest in protecting remnant vegetation. I agree with that.

The CHAIR — I am sure it was originally freehold land.

Mr JENNINGS — Originally?

The CHAIR — I am sure it was originally public land, within the terms of our definition.

Mr JENNINGS — I do not know that that is the case.

The CHAIR — I stand to be corrected.

Mr JENNINGS — In any case, the question about interest in remnant vegetation: yes, we do have some in relation to protecting environmental values; yes indeed, in terms of planning controls. Very often these are

exercised. In this case I do not know the history about this parcel of land, but what I do know is that it is not part of the terms of reference of the committee.

The CHAIR — We will have to agree to disagree on that.

Ms PENNICUIK — Minister, Green Wedges Coalition also mentioned, from its point of view — and we have heard this from other submitters also — that there is a lack of community input into the assessment process whereby land is identified as surplus. The community feels shut out of that process. There is also the perception — one that is probably reality — that once the decision is made, there is no appeal. If DSE makes an assessment and says, ‘There is no value here’, there is no appeal process for that.

Mr JENNINGS — That may occur in a number of instances where there is some community concern — and I think all of us have heard about these issues from time to time. It certainly happens far less than it did in the not-too-distant past. The issue that we exercise our minds quite a lot about is what ongoing community use or public benefit can be derived from parcels of land. Quite often we spend a lot of time on it when the land has been designated as government land and is then subsequently available for sale. Often members of Parliament, members of the government, regional officers of the relevant agencies try to work with community groups to try to maintain the maximum ongoing involvement of a public benefit from those parcels of land. A lot of work is undertaken, and there would probably be many examples that we could talk about. The point that you raise about ongoing community concern is something that we are not oblivious to or not supportive of.

The issue of, ultimately, ongoing public engagement in these issues, I cannot suggest to you any particular remedy because, as you probably would be aware, it is impossible to satisfy all of the community all of the time. In relation to this, I think there is a test of being reasonable, engaging and trying to elicit an ongoing community engagement with the use of these parcels of land. At some point in time, if those options and those opportunities have been explored, then the land is sold.

Ms PENNICUIK — I noticed, Minister, in the statement that you just furnished us with that you are responsible for land valuation by the valuer-general. I asked this question of the Minister for Planning but I will ask you as well: if you have got a parcel of land and the community is saying, ‘We wish to retain this land for a community use’, which it may have had for many years — it may have been maintained and looked after by local council and community groups — how is the value of that land assessed against a market value by the land valuer? It is a source of much angst among submitters.

Mr JENNINGS — Yes, there is an expectation it would be on market value. In fact that is the reason there is quite often a huge lot of tension and a huge lot of work that is undertaken, as I have just described in my previous answer, in trying to get through the eye of a needle to enable ongoing community use of something that in fact is very difficult for the community agencies to purchase.

Ms PENNICUIK — That is the issue. The community is saying and the councils are saying, ‘Why should we purchase land’ — which is effectively public land as far as they are concerned — ‘owned by the public?’. Whether it is owned by the state government or any other level of government, it is still owned by the taxpayer basically; it is owned by the people. The lower, less-resourced level of government having to purchase it from the more-resourced level of government sometimes means that community purpose cannot be fulfilled because they cannot raise the money. How is that value of the ongoing community use, which is not necessarily a monetary value, balanced against what you are saying is the market value?

Mr JENNINGS — These factors would have been considered at great length in accordance with the designation of whether it is maintained as public land or becomes government land and is then subsequently for sale in the first instance. There would have been a lot of examination and consideration of those factors then.

Ms PENNICUIK — The government land monitor asks that the value of the land be the best value to the government rather than to the community.

Mr JENNINGS — Yes. That is subsequent to the consideration of all the issues that we have been talking about.

Ms PENNICUIK — I will leave it at that. We could thrash that one out.

The CHAIR — Minister, I want to come back to some questions about data or information. When the secretary was here we discussed the guidelines for DSE assessments of Crown land, and to my knowledge we have not as yet received the details of those guidelines that we sought at that time.

Mr JENNINGS — I thought I posted them to you months ago.

The CHAIR — I am just checking. If that is not the case, we will come back to you and we will follow that up.

Mr JENNINGS — I thought I was just showing how generous I was, being the first volunteer of information to you.

The CHAIR — I have not seen them and I checked with the secretary before I asked the question.

The second thing in the way of data is DSE land that has been sold over the last five years; I wonder if you might provide the committee with the list and value of DSE land that has been sold? We are talking about your own department here.

Mr JENNINGS — No DSE land would have been sold.

Ms PENNICUIK — Mr Harris said it was minuscule, but he did not say it was none.

Mr JENNINGS — If I can find the minuscule land that actually satisfies his answer, then I will come back to you, but I find it very hard to believe that any land would actually be transferred directly from DSE to —

The CHAIR — DSE has large operations around the state, as you know, and all manner of landholdings.

Mr JENNINGS — Yes, but by the time it becomes government land — I would have to check its status in relation to that transference, because what I am talking about, DSE land staying as public, being designated as public land, clearly would not be subject to the transfer that you have just described.

Mr O'DONOHUE — Minister, could I just ask a follow-up question to the one I asked previously and the one that Ms Pennicuik asked. With the 2030 strategy, or 2020 as it in effect has become, the issue of open space as urban consolidation and density increases is not just a matter of the actual number of hectares or acres of open space that are available but per capita open space as density increases throughout parts of metropolitan Melbourne. Does the department have a policy on open space per capita, or a policy of increasing open space where density is increasing?

Mr JENNINGS — That is a very interesting concept and I think we as a planet would actually have difficulty if we all ascribed to it, so the answer is no, but I am interested to see whether there is any jurisdiction on the globe that actually has it or can make sense of how it can implement it. I am happy to have it as a bit of a brainteaser.

Mr TEE — Following up the question in relation to DSE and your earlier evidence about the additional parks that have been added to the system, I am wondering if you would be able to provide us with a list of those additions to the parks.

Mr JENNINGS — I just think in terms of humility, bang, bang, bang, yes, that is my intention, okay.

Ms PENNICUIK — The VicRoads site which I think is called Edgars Creek in Moreland. I know the council has written to VicRoads and DSE asking whether an assessment has been done of the public land values of that site, and has not had a response. Do you know whether an assessment has been done?

Mr JENNINGS — VicRoads in Moreland? What is the name of the site? Obviously VicRoads is accountable to me; obviously, I am in the right spot to ask this question!

The CHAIR — There is a submission on that matter from the city, in fact.

Ms PENNICUIK — Yes from the City of Moreland. It is the site north of Bell Street. I thought it was called Edgars Park, and it is VicRoads land.

Mr JENNINGS — Edgars Creek and Merri Creek, VicRoads property?

The CHAIR — The Moreland city submission.

Mr JENNINGS — Now that we have actually discovered that it is the four parcels of the land north of Murray Road, between Newlands Creek and Newlands Road, Coburg — they are the parcels — again I can tell you the volume and folio numbers because they are private land, and — —

The CHAIR — But owned by VicRoads in a number of those cases.

Mr JENNINGS — Yes, and your question was?

Ms PENNICUIK — Has DSE done a public land assessment?

Mr JENNINGS — No.

The CHAIR — Or any assessment?

Mr JENNINGS — No, not to my knowledge.

Ms PENNICUIK — Because there are significant environmental values there.

Mr JENNINGS — I am informed that we have not. Beyond that I can have a look at it but I am not quite sure, even when I have had a look at it, whether I am going to be able to provide you with much of an answer, but I am happy to have a look at it.

Ms PENNICUIK — Thank you, Minister. My last question is did DSE do an assessment on the St Kilda triangle site?

Mr JENNINGS — St Kilda triangle site?

Ms PENNICUIK — Prior to the Land (St Kilda Triangle) Act?

The CHAIR — DSE land.

Ms PENNICUIK — It was DSE land.

Mr JENNINGS — Yes, but is it within your terms of reference?

Ms PENNICUIK — Alienation of public land.

Mr JENNINGS — Is it being alienated?

Ms PENNICUIK — I would say so.

Mr JENNINGS — Is it being sold?

Ms PENNICUIK — It is being alienated. It is being leased.

Mr JENNINGS — I think it is within your capability of actually remedying this in terms of that definition. I think that would be — —

The CHAIR — The committee management is the council, as I understand it.

Mr JENNINGS — The advice that has been furnished to me reminds us all that the piece of legislation went through to enable that to occur, so in relation to just the process by which that land has the potential to be developed, it has been accounted for to the Parliament in that form.

Ms PENNICUIK — I asked you about prior to the St Kilda triangle act?

Mr JENNINGS — I think, as much as I would like to be able to help you, I cannot.

The CHAIR — You cannot or you will not?

Mr JENNINGS — One thing I can actually help you with is that land that you could not remember the name of before — it is Murtnaghurt Lagoon.

Ms PENNICUIK — Yes, Murtnaghurt.

Mr JENNINGS — How is that?

Ms PENNICUIK — Yes, that is very good, that is the one.

Mr JENNINGS — No wonder you did not remember it!

The CHAIR — Are there any other questions? I will respond to you on that other point of the DSE guidelines. The secretary has discussed the select committee's request for a copy of the DSE guidelines with me and I have now had an opportunity to view the document, signed by you, Minister, on 2 January. I quote:

The guidelines are dated February 1998, and reflect the previous government's policies, not this government's. As well as historic policy information, portions of the guidelines contain technical and factual information which currently assists DSE officers undertaking land assessments and evaluations. The guidelines are an internal working document and have not been publicly distributed.

As a complete document, the guidelines do not reflect this government's policy for sale of Crown land and thus will be of limited assistance to the select committee in its deliberations on your terms of reference. However, I have decided to release the guidelines to the select committee in line with the Brumby government commitment to improved access to government information.

Thank you for that, and my follow-up question on that matter is, what guidelines are in operation now? Are there some replacement guidelines? Will you release those to us?

Mr JENNINGS — I appreciate that you have done my work for me in my answer by just reading out the extracts from that letter. In terms of the technical administrative matters that relate to the assessments and the categorisation of public land to government land and the subsequent sale, they are exactly the same as in the guidelines. The reason why I described — in my letter — the difference is because these guidelines were originally prepared with the intention of having a large-scale sale program. The reason why I draw that to your attention is that it is not this government's intention to have the large-scale sale program. In fact it would be comparatively modest in the sale of government land rather than a broad-scale land sale program, and that is the reason why I gave that caveat.

The answer to your question is that the technical matters that relate to the administrative designation are the same as in the material that I sent to you. We do not have a different set of criteria for the administrative assessment and the technical procedures by which land would be made available for sale. We use in practice all of that material going back as far as 1998. That is what, technically, we use. We just have not re-written the preamble, or sent it out for public consideration.

The CHAIR — So there is no new set of guidelines in existence, as it were?

Mr JENNINGS — That is correct.

The CHAIR — Thank you for the clarification of that. I have one further question, and it is similar to Ms Pennicuik's question about the DSE assessments: was there a DSE assessment done on the Kew Residential Services site prior to the government's decision to develop that land for an expression-of-interest process?

Mr JENNINGS — I think that was almost the first question you asked me. I think that was the first question you asked me and the first question I answered. I think we have gone the loop.

The CHAIR — So the answer is?

Mr JENNINGS — I give the answer that I stood by in the beginning.

The CHAIR — Which is?

Mr JENNINGS — Which is on the public record now.

The CHAIR — Just yes or no. There was an assessment or there was not?

Ms PENNICUIK — I think you mean you stand by the answer you gave; is that what you mean?

Mr JENNINGS — Did I not say that? Did I not say, ‘I stand by the answer I gave’?

Ms PENNICUIK — You said that you gave the answer that you stood by.

The CHAIR — It is actually a slightly different question to the one I asked before. Was there a DSE assessment prior to the decision that developed?

Mr JENNINGS — I tried to give you an answer, because in fact I could not absolutely attest to the whether the department was in existence when that was undertaken. That was the nature of the discussion. In terms of my knowledge base of the issue, that is all I am able to stand by.

The CHAIR — You can take it on notice if you wish.

Mr JENNINGS — No, I am happy to stand by what I have said, thank you.

Ms PENNICUIK — Minister, I actually jotted down the follow-up question to that first question, which was: if the planning overlays were put in prior to the existence of DSE, does that mean that that site or any others may have fallen through the gap?

Mr JENNINGS — No, I would not make that assumption. I subsequently went on and actually talked about the remedies that people may exercise in relation to either the planning regime or the Flora and Fauna Guarantee Act in terms of trying to make sure that they have confidence. Those opportunities continue to exist.

Ms PENNICUIK — I took that — that there are remedies available for people to take action — but I wondered whether DSE takes any proactive action to make sure sites that were assessed prior to it are not falling through a crack? That is my question.

Mr JENNINGS — Yes. Through the processes that I have just described there would be ongoing engagement by DSE within the ones that I have described.

Ms PENNICUIK — Thank you.

The CHAIR — There are no other questions. I thank you for your appearance today, Minister, and no doubt we will be in communication to follow up a number of those matters that were raised.

Committee adjourned.